

THE HIGH COURT OF UTTARANCHAL AT NAINITAL.

Writ Petition (M/S) No.625 of 2006
(Under Article 227 of the Constitution of India)

1. K.L. Sharma, S/O Late Sri Chajju Ram,
2. Vishal Sharma S/O Sri K.L. Sharma,
3. Vivek Sharma S/O Sri K.L. Sharma,
All residents of 122, Guru Road, Dehradun,
District Dehradun.

..... Petitioners.

Versus

1. The Civil Judge (Junior Division) Dehradun.
District- Dehradun.
2. Ramesh Chandra Suri S/O late Sri Thakur Das Suri
R/O 23/3 Guru Road, Pargana Kendriya, District Dehradun.

..... Respondents.

Sri Sharad Sharma holding brief of Sri Jitendra Chaudhary, learned counsel for the petitioners.

Sri Atul Bansal Adv. holding brief learned Counsel for the State-respondent No.1.

Dated May 24, 2006.

**PC:
(Hon'ble B.S. Verma, J.)**

Heard learned counsel.

The petitioners have filed the present Writ Petition for issue of a direction to the respondent no.1 to decide Original Suit No.213 of 2005, Ramesh Chandra Suri Vs. K.L. Sharma, and others pending before him expeditiously.

According to petitioners, they and respondent no.2 are neighbours and a road known as Bharat Road which was being used as public path-way has been closed by the respondent no.2 illegally. The respondent no.2 purchased certain property in the year 1996 from one Brijmohan Nautiyal. The respondent no.2 with an intention to grab the public-pathway started efforts thereby he raised

two pillars on the disputed road in the year 2001, which resulted into closure of the public path-way. The matter was agitated by the petitioners before the Mussoorie and Dehradun Development Authority and the matter was reported to S.S.P. Dehradun. Then on enquiry made by the authorities concerned, the M.D.D.A. removed that illegal gate constructed by the respondent no. 2. Again, the respondent no.2 raised illegal construction on Bharat Road and thereafter, he filed a suit for permanent injunction against the petitioners before the court of respondent no.1. Along with the suit, application for temporary injunction was filed and the plaintiff obtained order of status quo from the court concerned. Ultimately, the petitioners filed writ petition NO. 655 of 2005 (M/S) before this Court for vacating the interim order which was passed ex-parte in favour of the respondent no.2. On 27-6-2005, this Court directed the respondent no.1 to decide the application for temporary injunction after hearing both the parties within period of three weeks from the date of receipt of objections. Ultimately, the application for temporary injunction was partly allowed on 31.08.2005 and order to maintain status-quo was taken away. The plaintiff then preferred a miscellaneous appeal before the Additional District Judge, who allowed the appeal and directed the parties to maintain status-quo on the spot, which resulted into closure of common public-pathway being used by the petitioners. It is alleged that in the garb of status quo order, the respondent no.2 is not taking interest in the expeditious disposal of the suit. Hence, the petitioners have come up before this Court in this writ petition with a prayer to seek direction to the respondent no. 1 to expedite the disposal of the suit filed by the plaintiff-respondent no.2.

In the facts and circumstances of the case coupled with the submission made by the learned counsel for the petitioners, it will be in the fitness of things that the respondent no.1 be directed to expedite disposal of the aforesaid suit. Accordingly, the respondent no.1 is directed to decide the Original suit No. 213 of 2005, Ramesh Chandra Suri Vs. K.L. Sharma and others expeditiously, preferably

within a period of six month from the date of production of certified copy of this order. Both the parties shall co-operate in the expeditious decision of the case.

With the aforesaid observation, the Writ Petition is disposed of finally.

(B.S. Verma, J.)

RCP